S T A T E O F N E W Y O R K

5573

2009-2010 Regular Sessions

I N S E N A T E

May 19, 2009

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public authorities law, the energy law, the executive law, the multiple dwelling law and the multiple residence law, in relation to energy conservation and water temperature management; and to amend the general municipal law, in relation to minimum water temperatures

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known and may be cited as the "energy conservation and water temperature management act".

S 2. Legislative findings. [Reserved]

S 3. The public authorities law is amended by adding a new section 1874 to read as follows:

S 1874. ENERGY CONSERVATION THROUGH WATER TEMPERATURE MANAGEMENT. 1. THE AUTHORITY SHALL CAUSE A STUDY TO BE PERFORMED ON THE SAVINGS GENERATED BY BETTER MANAGEMENT OF WATER TEMPERATURE IN PUBLIC BUILDINGS AND FACILITIES, MULTIPLE DWELLINGS, AND TENANT-OCCUPIED ONE-FAMILY AND TWO-FAMILY DWELLINGS THROUGHOUT THE STATE.

2. THE AUTHORITY SHALL SUBMIT A REPORT OF ITS FINDINGS TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY BY APRIL THIRTIETH, TWO THOUSAND TEN. THE REPORT SHALL INCLUDE:

(A) A PROPOSAL FOR STANDARDS AND DESIGNS FOR ENERGY EFFICIENT WATER TEMPERATURE CONTROL DEVICES FOR RESIDENCES, MULTIPLE DWELLINGS, AND PUBLIC BUILDINGS AND FACILITIES;

(B) AN ANALYSIS OF EMPIRICAL DATA AND STATISTICS REGARDING THE MONETARY COSTS AND SAVINGS, THE ENERGY CONSERVATION, AND THE ENVIRONMENTAL BENEFIT OFFERED THROUGH BETTER MANAGEMENT OF WATER TEMPERATURES; AND

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(C) ANY PROPOSED LEGISLATION OR SUGGESTED CHANGES TO THE CURRENT LAW THAT WOULD ASSIST PUBLIC ENTITIES AND PRIVATE CITIZENS TO CONSERVE ENERGY AND SAVE MONEY THROUGH BETTER MANAGEMENT OF WATER TEMPERATURES.

S 4. The energy law is amended by adding a new article 19 to read as follows:

ARTICLE 19

ENERGY CONSERVATION AND WATER TEMPERATURE MANAGEMENT

SECTION 19-101. ENERGY CONSERVATION IN PUBLIC BUILDINGS AND FACILITIES.

S 19-101. ENERGY CONSERVATION IN PUBLIC BUILDINGS AND FACILITIES. 1. NO BATHTUB, SHOWER, WASHBASIN OR SINK IN ANY PUBLIC BUILDING OR FACILITY SHALL EMIT WATER HAVING A TEMPERATURE IN EXCESS OF ONE HUNDRED TWENTY DEGREES FAHRENHEIT.

2. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, ANY MUNICIPALITY OR OTHER PUBLIC ENTITY WHO, PURSUANT TO THIS SUBDIVISION, INSTALLS A WATER TEMPERATURE CONTROL DEVICE AS DEFINED IN PARAGRAPH E OF SUBDIVISION SEVENTEEN OF SECTION THREE HUNDRED SEVENTY-EIGHT OF THE EXECUTIVE LAW SHALL NOT BE:

(A) RESPONSIBLE TO ANY PERSON FOR INJURIES CAUSED SOLELY BY THE FAILURE OF SUCH DEVICE TO OPERATE PROPERLY IF SUCH FAILURE RESULTS FROM THE DEVICE BEING TAMPERED WITH OR RENDERED INOPERABLE BY ANY INVITEE OR LICENSEE IN SUCH BUILDING OR FACILITY; OR

(B) RESPONSIBLE TO ANY PERSON OR SUBJECT TO PENALTY OF LAW FOR FAILURE TO DELIVER HOT WATER CONTINUOUSLY OR AT ANY MINIMUM TEMPERATURE REQUIRED BY ANY LAW, RULE OR REGULATION SOLELY BY REASON OF THE PROPER OPERATION OF THE WATER TEMPERATURE CONTROL DEVICE.

S 5. Section 378 of the executive law is amended by adding a new subdivision 17 to read as follows:

17. WATER TEMPERATURE MANAGEMENT STANDARDS. A. NO BATHTUB, SHOWER, WASHBASIN OR SINK IN ANY DWELLING UNIT IN A MULTIPLE DWELLING OR TENANT-OCCUPIED ONE-FAMILY OR TWO-FAMILY DWELLING SHALL EMIT WATER HAVING A TEMPERATURE IN EXCESS OF ONE HUNDRED TWENTY DEGREES FAHRENHEIT.

B. ANY OWNER OF A DWELLING FOUND TO EMIT WATER THAT EXCEEDS THE STANDARD OF THIS SUBDIVISION SHALL BE IN VIOLATION OF THIS SECTION AND SHALL BE LIABLE FOR A FINE.

(I) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED TWENTY DEGREES FAHRENHEIT BUT DOES NOT EXCEED ONE HUNDRED THIRTY DEGREES FAHRENHEIT, THE FINE SHALL BE TWO HUNDRED FIFTY DOLLARS FOR THE FIRST VIOLATION AND FIVE HUNDRED DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

(II) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED THIRTY DEGREES FAHRENHEIT BUT DOES NOT EXCEED ONE HUNDRED FORTY DEGREES FAHRENHEIT, THE FINE SHALL BE FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION AND ONE THOUSAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

(III) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED FORTY DEGREES FAHRENHEIT, THE FINE SHALL BE ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION AND TWO THOUSAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

C. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, ANY OWNER OF A DWELLING WHO, PURSUANT TO THIS SUBDIVISION, INSTALLS A WATER TEMPERATURE CONTROL DEVICE AS DEFINED IN PARAGRAPH E OF THIS SUBDIVISION SHALL NOT BE:

(I) RESPONSIBLE TO ANY PERSON FOR INJURIES CAUSED SOLELY BY THE FAILURE OF SUCH DEVICE TO OPERATE PROPERLY IF SUCH FAILURE RESULTS FROM THE DEVICE BEING TAMPERED WITH OR RENDERED INOPERABLE BY ANY INVITEE OR LICENSEE IN SUCH BUILDING OR FACILITY; OR

(II) RESPONSIBLE TO ANY PERSON OR SUBJECT TO PENALTY OF LAW FOR FAILURE TO DELIVER HOT WATER CONTINUOUSLY OR AT ANY MINIMUM TEMPERATURE

REQUIRED BY ANY LAW, RULE OR REGULATION SOLELY BY REASON OF THE PROPER OPERATION OF THE WATER TEMPERATURE CONTROL DEVICE.

D. INSTALLATION OF AN ANTI-SCALD DEVICE, OR ANY WORK NECESSARY TO THE INSTALLATION OF SUCH DEVICE TO COMPLY WITH THIS SECTION, SHALL NOT QUALIFY FOR A RENT INCREASE UNDER ANY PROVISION OF LAW IMPLEMENTED TO REGULATE SUCH RENTS.

E. FOR PURPOSES OF THIS SECTION, A WATER TEMPERATURE CONTROL DEVICE SHALL MEAN AN ANTI-SCALD DEVICE OR OTHER DEVICE THAT PREVENTS WATER EMITTED BY A BATHTUB, SHOWER, WASHBASIN, OR SINK FROM EXCEEDING A MAXIMUM TEMPERATURE SET BY THE DEVICE, WHERE SUCH DEVICE MEETS THE ACCEPTED NATIONAL STANDARD PLUMBING CODES OF THE BUILDING OFFICIALS AND CODE ADMINISTRATION, INC. (BOCA), THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFICIALS (IAPMO), THE SOUTHERN BUILDING CODE CONGRESS INTERNATIONAL (SBCCI), OR THE NATIONAL STANDARD PLUMBING CODE (NSPC).

S 6. The multiple dwelling law is amended by adding a new section 75-a to read as follows:

S 75-A. WATER TEMPERATURE MANAGEMENT STANDARDS. 1. NO BATHTUB, SHOWER, WASHBASIN OR SINK IN ANY DWELLING UNIT IN A MULTIPLE DWELLING OR TENANT-OCCUPIED ONE-FAMILY OR TWO-FAMILY DWELLING SHALL EMIT WATER HAVING A TEMPERATURE IN EXCESS OF ONE HUNDRED TWENTY DEGREES FAHRENHEIT.

2. ANY OWNER OF A DWELLING FOUND TO EMIT WATER THAT EXCEEDS THE STANDARD IN PARAGRAPH B OF THIS SUBDIVISION SHALL BE IN VIOLATION OF THIS SECTION AND SHALL BE LIABLE FOR A FINE.

A. IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED TWENTY DEGREES FAHRENHEIT BUT DOES NOT EXCEED ONE HUNDRED THIRTY DEGREES FAHRENHEIT, THE FINE SHALL BE TWO HUNDRED FIFTY DOLLARS FOR THE FIRST VIOLATION AND FIVE HUNDRED DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

B. IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED THIRTY DEGREES FAHRENHEIT BUT DOES NOT EXCEED ONE HUNDRED FORTY DEGREES FAHRENHEIT, THE FINE SHALL BE FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION AND ONE THOUSAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

C. IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED FORTY DEGREES FAHRENHEIT, THE FINE SHALL BE ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION AND TWO THOUSAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

3. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, ANY OWNER OF A DWELLING WHO, PURSUANT TO THIS SUBDIVISION, INSTALLS A WATER TEMPERATURE CONTROL DEVICE AS DEFINED IN PARAGRAPH E OF SUBDIVISION SEVENTEEN OF SECTION THREE HUNDRED SEVENTY-EIGHT OF THE EXECUTIVE LAW SHALL NOT BE:

A. RESPONSIBLE TO ANY PERSON FOR INJURIES CAUSED SOLELY BY THE FAILURE OF SUCH DEVICE TO OPERATE PROPERLY IF SUCH FAILURE RESULTS FROM THE DEVICE BEING TAMPERED WITH OR RENDERED INOPERABLE BY ANY INVITEE OR LICENSEE IN SUCH BUILDING OR FACILITY; OR

B. RESPONSIBLE TO ANY PERSON OR SUBJECT TO PENALTY OF LAW FOR FAILURE TO DELIVER HOT WATER CONTINUOUSLY OR AT ANY MINIMUM TEMPERATURE REQUIRED BY ANY LAW, RULE OR REGULATION SOLELY BY REASON OF THE PROPER OPERATION OF THE WATER TEMPERATURE CONTROL DEVICE.

4. INSTALLATION OF A WATER TEMPERATURE CONTROL DEVICE, OR ANY WORK NECESSARY TO THE INSTALLATION OF SUCH DEVICE TO COMPLY WITH THIS SECTION, SHALL NOT QUALIFY FOR A RENT INCREASE UNDER ANY PROVISION OF LAW IMPLEMENTED TO REGULATE SUCH RENTS.

S 7. The multiple residence law is amended by adding a new section 16 to read as follows:

S 16. WATER TEMPERATURE MANAGEMENT STANDARDS. 1. NO BATHTUB, SHOWER, WASHBASIN OR SINK IN ANY DWELLING UNIT IN A MULTIPLE DWELLING OR

TENANT-OCCUPIED ONE-FAMILY OR TWO-FAMILY DWELLING SHALL EMIT WATER HAVING A TEMPERATURE IN EXCESS OF ONE HUNDRED TWENTY DEGREES FAHRENHEIT.

2. ANY OWNER OF A DWELLING FOUND TO EMIT WATER THAT EXCEEDS THE STANDARD IN PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE IN VIOLATION OF THIS SECTION AND SHALL BE LIABLE FOR A FINE.

(A) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED TWENTY DEGREES FAHRENHEIT BUT DOES NOT EXCEED ONE HUNDRED THIRTY DEGREES FAHRENHEIT, THE FINE SHALL BE TWO HUNDRED FIFTY DOLLARS FOR THE FIRST VIOLATION AND FIVE HUNDRED DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

(B) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED THIRTY DEGREES FAHRENHEIT BUT DOES NOT EXCEED ONE HUNDRED FORTY DEGREES FAHRENHEIT, THE FINE SHALL BE FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION AND ONE THOUSAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

(C) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED FORTY DEGREES FAHRENHEIT, THE FINE SHALL BE ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION AND TWO THOUSAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

3. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, ANY OWNER OF A DWELLING WHO, PURSUANT TO THIS SUBDIVISION, INSTALLS A WATER TEMPERATURE CONTROL DEVICE AS DEFINED IN PARAGRAPH E OF SUBDIVISION SEVENTEEN OF SECTION THREE HUNDRED SEVENTY-EIGHT OF THE EXECUTIVE LAW SHALL NOT BE:

(A) RESPONSIBLE TO ANY PERSON FOR INJURIES CAUSED SOLELY BY THE FAILURE OF SUCH DEVICE TO OPERATE PROPERLY IF SUCH FAILURE RESULTS FROM THE DEVICE BEING TAMPERED WITH OR RENDERED INOPERABLE BY ANY INVITEE OR LICENSEE IN SUCH BUILDING OR FACILITY; OR

(B) RESPONSIBLE TO ANY PERSON OR SUBJECT TO PENALTY OF LAW FOR FAILURE TO DELIVER HOT WATER CONTINUOUSLY OR AT ANY MINIMUM TEMPERATURE REQUIRED BY ANY LAW, RULE OR REGULATION SOLELY BY REASON OF THE PROPER OPERATION OF THE WATER TEMPERATURE CONTROL DEVICE.

4. INSTALLATION OF A WATER TEMPERATURE CONTROL DEVICE, OR ANY WORK NECESSARY TO THE INSTALLATION OF SUCH DEVICE TO COMPLY WITH THIS SECTION, SHALL NOT QUALIFY FOR A RENT INCREASE UNDER ANY PROVISION OF LAW IMPLEMENTED TO REGULATE SUCH RENTS.

S 8. The general municipal law is amended by adding a new section 137 to read as follows:

S 137. MINIMUM TEMPERATURE FOR TAP WATER. IF ANY MUNICIPAL CORPORATION ENACTS A LOCAL LAW, RULE, ORDINANCE, OR REGULATION RELATING TO THE MINIMUM TEMPERATURE OF TAP WATER SUPPLIED TO A PUBLIC BUILDING OR FACILITY OR A RESIDENCE, THE MUNICIPAL CORPORATION SHALL ENSURE THAT SUCH MINIMUM TEMPERATURE IS NO HIGHER THAN ONE HUNDRED TEN DEGREES FAHRENHEIT.

S 9. This act shall take effect on the one hundred eightieth day after it shall have become a law.